

Notice of Allowability

Application No.

10/670,215

Examiner

Timothy J. Kugel

Applicant(s)

YAMAMOTO ET AL.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 3 July 2006.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/622,480.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>9/26/2003</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Claims 1-11 are pending as amended on 3 July 2006.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Information Disclosure Statement

3. Applicant's arguments filed 3 July 2003, regarding the presentation of references in the parent application have been fully considered and are corrective.

The information disclosure statement submitted on 26 September 2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

Drawings

4. The objection to the drawings is maintained. Applicant's replacement sheets filed 3 July 2006 been fully considered but are not corrective.

The replacement sheets do not show any detail. This may be because they are photographs that will not scan correctly.

Specification

5. Applicant's amendment, filed 3 July 2006, with respect to the cross-reference to the parent application has been fully considered and is corrective.

The objection to the specification has been withdrawn.

Claim Rejections - 35 USC § 112

6. Applicant's amendment, filed 3 July 2006, with respect to the scope of enablement as to the number of phases has been fully considered and is corrective.

The rejection of claims 1-4 under 35 USC 112 1st paragraph has been withdrawn.

7. Applicant's amendment, filed 3 July 2006, with respect to clarification of the terms 'phase' and 'compound', regarding the parentheses in claim 1 and the term 'mixture of oxides' has been fully considered and is corrective.

The rejection of claims 1-4 under 35 USC 112 1st paragraph has been withdrawn.

Double Patenting

8. Applicant's terminal disclaimer, filed 3 July 2003, has been fully considered and is proper.

The rejection of claims 1-4 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10, 11, 13, 14 and 16 of US Patent 6,667,946 (Yamamoto hereinafter) has been withdrawn.

9. Applicant's amendment, filed 3 July 2006, with respect to limiting the continuous phase to being an inorganic compound has been fully considered and overcomes the claims of the cited related applications.

The provisional rejection of claims 1-3 under the judicially created doctrine of obviousness-type double patenting over claim 1 of copending Application No. 10/750,882 has been withdrawn.

The provisional rejection of claims 1-3 under the judicially created doctrine of obviousness-type double patenting over claim 5 of copending Application No. 10/832,310 has been withdrawn.

Claim Rejections - 35 USC § 102 and/or 35 USC § 103

10. Applicant's amendment, filed 3 July 2006, with respect to limiting the continuous phase to being an inorganic compound has been fully considered and overcomes the prior art.

The rejection of claim 1 under 35 U.S.C. 102(b) as being anticipated by US Patent 5,393,465 (Drozdyk hereinafter) has been withdrawn.

The rejection of claims 2 and 3 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Drozdyk has been withdrawn.

The rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Drozdyk has been withdrawn.

11. Applicant's amendment, filed 3 July 2006, with respect to eliminating lead and aluminum as potential constituents of the discontinuous phase has been fully considered and overcomes the prior art.

The rejection of claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,579,807 (Blonder hereinafter) has been withdrawn.

The rejection of claims 2 and 3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Blonder has been withdrawn.

The rejection of claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Blonder has been withdrawn.

Allowable Subject Matter

12. Claims 1-11 are allowed.

Conclusion

13. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1712

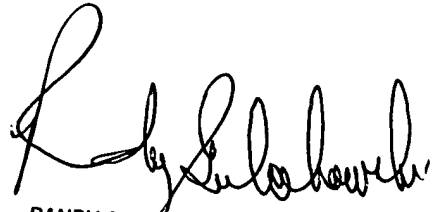
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK
Art Unit 1712



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